

Notice of Allowability**Application No.**

10/660,968

Applicant(s)

XU ET AL.

Examiner

Eileen B. O'Hara

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 7, 8, 33 and 34, renumbered as 1-4, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 8/30/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date ____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

Eileen B. O'Hara
EILEEN B. O'HARA
 PRIMARY EXAMINER

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robyn Adams on August 29, 2006.

The application has been amended as follows:

Claims 1-6, 9-32 and 35-38 have been canceled.

Claim 34, lines 2, 4, 6 and 8, replace "molecules" with – molecule – .

In the specification on page 1, line 10, after "09/695,369, filed October 23, 2000", insert – (now abandoned) – .

The art considered pertinent to the present application is Lucas et al., WO2003013583, which discloses a polypeptide identified as faxigen (SEQ ID NO: 14), which is identical to the polypeptide of SEQ ID NO: 38 of the present application. This is not considered prior art, as the effective filing date of the instant application ((August 1, 2000) is before that of the publication.

The art considered pertinent to the present application is Holtzman, WO200039284, July 6, 2000, which discloses a polypeptide identified as TANGO 140-2 (Figure 3, pages 139-140) which is identical to amino acids 1-142 of the polypeptide of SEQ ID NO: 38 of the present

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application. This is not considered prior art, as the claims have the limitation that the polypeptide comprise or consist of at least residues 1-147 of SEQ ID NO: 38, and the polypeptide of Holtzman comprises only residues 1-142.

The following is an examiner's statement of reasons for allowance: The claims are drawn to polypeptide of SEQ ID NO: 38, or polypeptide comprising residues 1-142, 1-154, 1-163 or 1-165 of SEQ ID NO: 38. The protein is not disclosed in the prior art, and it has a specific and substantial utility. The specification teaches that the transcript encoding the protein is expressed in numerous cancer tissues or cell lines, but is not detectable in any normal cell line or tissue. See Example 2, human multiple tissue Northern Blots, Example 8, *in situ* hybridization in specific human tissues, Example 10, in-house blot containing poly A+ RNA from human normal liver, human normal pancreas and four human melanoma cell lines, and Example 13, *in situ* hybridization in specific human tissues including normal skin, melanoma skin, squamous cell carcinoma, psoriasis and cutaneous T-cell lymphoma skin samples, normal and adenocarcinoma colon and inflamed appendix samples. Since the transcript encoding the protein is only expressed in cancer tissues or cell lines and not in any normal tissue, one of ordinary skill in the art would use the protein to make antibodies to detect cancerous tissues.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eileen B. O'Hara, whose telephone number is (571) 272-0878. The examiner can normally be reached on Monday through Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nichol can be reached at (571) 272-0835.

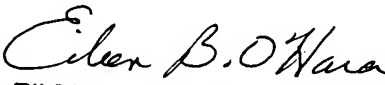
The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Eileen B. O'Hara, Ph.D.

Patent Examiner


EILEEN B. O'HARA
PRIMARY EXAMINER